IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8791 OF 2003

Kailash Ramdas Salunke ... Petitioner.

V/s.

The State of Maharashtra & Ors. ...Respondents.

Shri.M.R. Katikar for petitioner.
Shri.R.D. Rane GP for respondent No.1 to 3.

CORAM : V.G. PALSHIKAR &
V.M. KANADE, JJ.

DATED : 12/07/06

P.C.:-

. By this petition, petitioner has impugned the order of punishment passed by the Disciplinary Authority and Appellant Authority on the ground of principles of natural justice were violated during the conduct of the inquiry.

. Disciplinary inquiry was started against the petitioner for misleading superiors and for mis-conducing himself while discharging duties as Head-Master. Petitioner contested disciplinary

proceedings and by order dated 4/4/2000 he was penalized under relevant rules. Under the relevant rules, this order was questioned in appeal of the petitioner. Specific contentions raised in his memo of appeal are as under:-

> “Thereafter, the Education Officer(Primary) and disciplinary authority without hearing me further, without holding enquiry in my presence and without following the principles of natural justice as well as procedure laid down in the Conduct Rules passed the impugned order dated 4.4.2000 by the Education Officer(Primary) thereby imposing upon the punishment of withholding one increment for a year.”

. The appeal was decided by the appellant authority on 12/3/2003. This contention is nowhere mentioned or decided by the appellant authority. Question of substantial importance is, thus not decided by the appellant authority. It is, consequently, failure on the part of appellant authority to exercise its jurisdiction as conferred

on it by rule 13 of the Rules. We, therefore set aside order dated 12/3/2003 and remitted back the matter to the Chief Executive Officer, Zilla Parishad, Sindhudurg for deciding the appeal. After considering facts and contentions raised by the petitioner in the appeal memo, appeal partly succeeds and partly allowed. Order dated 12/3/2003 is set aside as aforesaid. No order as to costs.

V.G. PALSHIKAR, J.

V.M. KANADE, J.